

DRAFT
PLANNED DEVELOPMENT PERMIT
(Last Revised 7-27-04)

FILE NO.	PD 04-021
LOCATION OF PROPERTY	Northwest corner of West Alma and Lick Avenues
ZONING DISTRICT	A(PD) Planned Development (PDC02-072)
GENERAL PLAN DESIGNATION	Tamien Station Area Planned Community; Transit Corridor Residential (25-150)
PROPOSED USE	240 single family attached residential units
ENVIRONMENTAL STATUS	Mitigated Negative Declaration
OWNER/ADDRESS	Salvador Lobue Family Trust, 1275 Lincoln Avenue., No. 10 San Jose, CA 95125 James Iwasaka, Duad Properties 1303 Lick Avenue San Jose, CA 95125

FACTS

1. The project site has a designation of Transit Corridor Residential (25 to 150 DUAC).
2. The project site is located in the A(PD) Planned Development Zoning District.
3. The subject site is 3.18 acres.
4. The project proposes the demolition of existing buildings on the site, removal of up to three ordinance-size trees, the construction of 240 single-family attached residential units and associated parking and recreational facilities, implementation of off-site improvements to enhance the pedestrian environment, and participation in the provision of a public park.
5. The project site is located immediately adjacent to the Tamien LRT Station. Access to the State Route 87 is located just west of the site.

6. An historic analysis prepared for the Alma Bowl building, proposed for demolition, indicates that the structure is not a significant historic resource.
7. This Permit provides for 240 single-family attached residential units, including 12 townhomes and 228 units in twin, mid-rise buildings.
8. This Permit allows for on-site recycling/crushing of demolition debris through a subsequent Permit Adjustment. Such recycling offers the opportunity to turn on-site demolition material into aggregate for use in the construction of the project, thereby reducing truck trips to and from the site.
9. The applicant has agreed to donate a limited amount of engineering services for the design of a bicycle connection from the bicycle path adjacent to State Route 87 to Alma Avenue.
10. The project includes the provision of off-site improvements to enhance the pedestrian environment.
11. The driveway and pedestrian access from Lick Avenue will not be gated to ensure appropriate public access to the podium.

FINDINGS

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that:
 - a. The zoning for the property is consistent with the General Land Use Plan designation of A(PD) Planned Development and with the Tamien Specific Plan.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property in that:
 - a. The building location, setbacks, density, and number of units and parking spaces conform to the General Development Plan.
3. The interrelationship between the orientation, location and elevations of the proposed building(s) and structure(s) and other uses on-site are mutually compatible and aesthetically harmonious in that:
 - a. The architectural elements of the proposed and/or existing structure(s) are integrated into a harmonious whole.
4. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. The environmental impacts of this project were addressed by an Initial Study and Mitigated Negative Declaration (File No. PDC02-072) which concluded that the project would not result in any significant environmental impact. Mitigation was included in the project to

ensure that the project would not result in undue impacts on adjacent properties.

5. The location of the ordinance-size trees with respect to the proposed improvements does unreasonably restrict the economic development of the parcel in question.
6. Under the provisions of Section 20.80.440 of the San José Municipal Code, except as specifically exempted by Section 20.80.450, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.
 - a. The Permit includes the demolition of commercial structures in the A (PD) Planned Development Zoning District (File No. PDC02-072).
 - b. The Director Planning has considered all of the following criteria in evaluating the proposed demolition.
 - 1) The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
 - 2) The failure to approve the permit would jeopardize public health, safety or welfare.
 - 3) The approval of the permit would not negatively impact the supply of existing housing stock in the City of San José.
 - 4) Both inventoried and non-inventories buildings, sites and districts of historical significance should not be negatively impacted.
 - 5) Rehabilitation or reuse of the existing building would not be feasible.
 - 6) The approval of the demolition of the building should facilitate a project which is compatible with the surrounding neighborhood.
 - c. Further, the director of Planning concludes and finds, based on the analysis of the above facts, that:
 - 1) The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
 - 2) The proposed project is in conformance with the California Environmental Quality Act.
 - 3) The benefits of permitting the demolition, removal or relocation of the subject building outweigh the impacts of the demolition, removal or relocation.
 - d. Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Section 20.80.440 of the San José Municipal Code, the demolition of the subject structures.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
3. **Permit Expiration.** This Planned Development Permit shall automatically expire 30 months from and after the date of issuance hereof by said Director, if within such 30 month period, the proposed use of this site of the construction of buildings has not commenced, pursuant to and in accordance with the provision of this Planned Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
4. **Conformance with Plans.** Construction and development shall conform to approved plans entitled, "Tamien Place Residential Development," dated April 1, 2004 as revised in Condition No. 8 of this Permit, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
5. **Revocation.** This Site Development Permit is subject to revocation for violation of any of its provisions or conditions.
6. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
7. **Acceptance.** The "Acceptance of Permit and Conditions" form shall be ***signed, notarized, and returned*** to the Department of Planning, Building and Code, Enforcement within **60 days** from the date of issuance of permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.*
8. **Plan Revisions.** Within 60 days of the issuance of this Permit and prior to recordation, the Applicant shall revise the project plans to include the item(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall render this permit null and void.
 - a) *Signs.* Provide complete details for signage, including materials/colors, dimensions

and height that demonstrate conformance with Sign Code or remove signage from plans.

- b) *Townhouses*. Provide additional detail and refine the design of the townhouse porches and facades.
 - c) *Residential Towers*. Refine exterior details of tower design.
 - d) *Fences/Walls*. Show fencing around the pool and garage ramp. Label all proposed fencing on the landscape plan and reference and include a detail.
 - e) *Gates*. Move the gate at the garage entrance to the bottom of the ramp. Replace the swinging gate with a roll-up gate. Move pedestrian gates controlling entrance to the garage to the top of the stairs in conformance with Police Department recommendations. Provide gate details.
 - f) *Lighting*. Reference and provide details/specifications for all proposed lighting. Lighting must conform to the City Council Outdoor Lighting Policy. Add more lighting fixtures along the walkway that parallels Alma Avenue. Provide additional lighting of the VTA walkway along the property line abutting the northerly tower or comply with Condition No. 25 regarding lighting of this walkway..
 - g) *Site Plan*. Correct information in box labeled “Zoning Information” to reflect Assessor Parcel Numbers, acreage and other information for this project.
 - h) *Phasing Plan*. Revise the phasing plan to show a maximum of two phases. The southerly-most townhouses shall be included in the same phase as the south residential tower and the northerly-most townhouses shall be included in the same phase as the north tower. Show a temporary solution for the treatment of the northerly edge of the garage in the Phase I plan. Remove reference to future uses from the phasing plans.
 - i) *Landscaping*. Provide additional landscaping to soften the appearance of the pedestrian ramps adjacent to Alma Avenue.
 - j) *Garage*. Revise garage plan as necessary to ensure security/visibility of elevator lobby by such means as enclosing the bicycle parking with mesh fencing or moving it away from the elevator.
9. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of territory not covered by the permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.
10. **Removal of Improvements.** All existing improvements shall be removed from the site.
11. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
12. **Construction Impact Mitigation Measures.** The applicant shall ensure that the following construction impact mitigation measures are fully implemented throughout the duration of construction activities associated with this project and related off-site construction work. Failure

to comply with these conditions by the applicant, project contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City.

- a. *Equipment.* Mitigation of construction phase noise at the site shall include the use of quiet or “new technology” equipment, particularly with improved exhaust mufflers. All internal combustion engines used at the project site shall be equipped with the type of muffler recommended by the equipment manufacturer. In addition, all equipment shall be maintained in good mechanical condition so as to minimize noise created by faulty or poorly maintained engine, drive-train and other components.
- b. *Construction Hours.* Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site construction activities located within 500 feet of any residential unit. The Director of Planning may authorize construction outside these hours on a temporary basis for the pouring of concrete slabs (that cannot be completed in a 12-hour period) through a Permit Adjustment. The applicant shall provide prior written notification to surrounding property owners and tenants within 300 feet of the project site of the time, date and purpose of any temporary extended construction hours approved by the Director of Planning.
- c. *Construction Deliveries.* Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the opening of the gates to prevent the disruption of nearby residents.
- d. *Fencing.* The site shall be wholly enclosed by security fencing. The gates to the project site shall remain locked during all other times, except for a fifteen minute period immediately preceding and following the above hours of construction.
- e. *Construction Employees.* Construction workers shall not arrive to the site until the opening of the project gates. The applicant shall designate a location without adjacent residential units for workers to wait prior to the opening of the project gates.
- f. *Plans.* The construction hours shall be printed on all plans for the project used to construct the project.
- g. *Mitigation Measures.* These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors. In addition, the applicant is responsible to ensure the following occur prior to the issuance of a Building Permit for the project:
- h. *Disturbance Coordinator.* A disturbance coordinator shall be identified by the developer for this project. The disturbance coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other construction-related conditions in this permit.
- i. *Daily Log.* The disturbance coordinator shall maintain a log of daily activities on the project, including but not limited to, verification of site closure activities, project cleanliness, complaints on site activities and conditions and dates and times of the

coordinators visits to the project if the coordinator is not solely responsible for this project site. This log shall be available for inspection by City Staff upon request.

- j. *Telephone Contact.* A phone with answering machine for non-work hours shall be maintained during the duration of project construction. The phone number should be a local call for surrounding residents.
- k. *Signage.* The name and phone number of the disturbance coordinator, the hours of construction limitations, City File Number PD04-021, city contact and phone number (department and phone number), and shall be displayed on a weatherproof sign posted at each entrance to the project site.
- l. *Pile Driving.* This permit does not allow pile driving. Any pile-driving proposal shall require an additional Planned Development Permit Amendment.
- m. *On-Site Crushing/Recycling of Demolition Materials.* This permit does not allow crushing and recycling of materials from on-site demolition; however, such on-site recycling may be allowed during the demolition phase of the project upon approval of a Permit Adjustment based on a finding by the Director of Planning that the proposed recycling operation will not result in unacceptable noise, dust or other impacts on surrounding uses. In no case shall recycling on this site include crushing of materials from off the site. If on-site crushing is approved, the recycling operation shall conform to the conditions of the Permit Adjustment.

13. Dust Control/Air Quality. The following construction practices shall be implemented during all phases of construction on the project site:

- a. Use dust-proof chutes for loading construction debris onto trucks.
- b. Water or cover stockpiles of debris, soil, sand or other materials sufficient to prevent the material from becoming airborne.
- c. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- d. Sweep daily or as often as necessary to keep the adjoining streets, paved access roads, parking areas and staging areas at construction site free of dust and debris.
- e. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- f. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- g. Replant vegetation in disturbed areas as quickly as possible

14. Landscaping. Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape

Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.

15. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
16. **Storm Water Discharge.** The applicant shall conform to the Non-Point Source Control requirement for storm water discharge associated with construction activity as required by the State Water Resource Control Board. Contact the Regional Water Quality Control Board at (415) 286-0968 for further information.
17. **Tract Sales Office/Model Homes.** This permit does not include the approval of a tract sales office/model homes complex. Such use requires a Permit Adjustment approved by the Director of Planning.
18. **Decorative Fountain Operation.** The fountain shown on the approved plan set shall be fully lined and be designed to recirculate, and not mist, the water.
19. **Pool Fencing.** Pool fencing shall conform to the requirements of the Building Code.
20. **Park Dedication Ordinance (PDO).** In Lieu of payment of fees or dedication of park land pursuant to the PDO, the applicant shall execute an agreement to provide replacement parking for those spaces displaced by development of the recreation facility and for development of the Lick Avenue Park and PTRAC facility as specified below to the satisfaction of the Director of Planning:
 - a. Prior to issuance of a Public Works Clearance for Phase I of construction pursuant to this Permit, the applicant shall execute an agreement to contribute \$1.4 million, or the equivalent in service, to the build out of the replacement parking deck on the VTA property on the west side of the Tamien Station and combine with the \$400,000 contribution from VTA for a total project budget of \$1.8 million.
 - b. Prior to issuance of Building Permits for Phase II of construction pursuant to this Permit, the applicant shall execute an agreement for construction of the Lick Avenue Park on the 2.2 acre VTA property located directly east of the Tamien LRT Station. Prior to occupancy of any Phase II residential unit, the applicant shall complete construction of the Lick Avenue Park.

The applicant's obligation under items *a* and *b* above shall not exceed the value of the in lieu park fees to which this project would otherwise be subject.
21. **Project Phasing.** Project phasing shall conform to the approved plan set.
 - a) *Removal of Construction Equipment.* Unless the applicant has filed a building permit application for Phase II within 30 days of occupancy of Phase I, the applicant shall remove all construction equipment from the Phase III/IV site and hydroseed the site. Unless the applicant has filed a building permit application for Phase III

within 30 days of the occupancy of Phase II, the applicant shall removal all construction equipment from the Phase III/IV site and hydroseed the site.

- b) *Permit Adjustment.* If construction of Phase III has not commenced within 3 years of the first occupancy of Phase I residential units, the applicant shall obtain a Permit Adjustment to provide additional landscaping and/or more permanent fencing of the Phase II site as determined necessary by the Director of Planning.
 - c) *Townhouse Construction.* Prior to occupancy of the top two floors of each residential tower, the applicant shall complete framing of the six townhouse units located immediately to the east of the tower.
22. **Nesting Raptor Survey.** If construction is to occur during the nesting season, a qualified ornithologist shall conduct a pre-construction survey no earlier than 30 days prior to commencement of construction. If nesting raptors are identified on or adjacent to the site, the ornithologist shall, in consultation with the Department of Fish and Game, determine a construction-free setback zone around the nest (minimum of 250 feet). Prior to the commencement of construction, the applicant shall submit a report of the results of the survey, including any recommended setback zone or other mitigation, to the satisfaction of the Director of Planning. The applicant shall implement the recommended mitigation to the satisfaction of the Director of Planning.
23. **Salvage of Alma Bowl Sign.** Prior to demolition of the existing Alma Bowl Sign, the applicant make the sign available for salvage as indicated below:
- a. Notify in writing the Fourth Street Bowl and other Bowling Alleys and Leagues in Santa Clara County (as identified in the Historic Report prepared for the Fiesta Bowl site); Alex Mathews, Executive Director, Preservation Action Council of San Jose; and Mike Tierney (MikeT19278@aol.com) or Steve Padnos (408) 548-3139) of the Victorian Preservation Association of the availability of the sign for salvage. The letter of notification should identify all of the businesses and organizations receiving the notification.
 - b. If the above organizations express no interest within 30 days, the applicant shall offer the sign for salvage to Reuse People at <http://www.thereusepeople.org/> and Main Office and Retail Sales Store 2100 Ferry Point #150, Alameda, CA 94501, (510) 522-2722 who specialize in the reuse of building materials to assist other builders and to reduce waste.
 - c. If any of the above express interest in salvaging the sign, the applicant shall make the sign available to that organization for a minimum period of 90 days and shall facilitate access to and removal of the sign from the site.
 - d. Prior to demolition of the sign, the applicant shall submit a report documenting compliance with this condition to the satisfaction of the Director of Planning.
24. **Public Works Clearance for Building Permit(s):** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Prior to the approval of the tract or parcel map by the Director of

Public Works, the applicant will be required to have satisfied all of the following Public Works conditions.

- a. **Public Works Development Review Fee:** An additional Public Works Review Fee is due. Based on established complexity criteria, the project has been rated medium complexity. Prior to the project being cleared for the hearing and approval process, a sum of \$1,998 shall be paid to the Department of Public Works (Room 308).
- b. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- c. **Grading/Geology:**
 - A grading permit is required prior to the issuance of a Public Works Clearance.
 - If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 277-4304 for more information concerning the requirements for obtaining this permit.
 - Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Storm:**
 - On-site ponding must be less than one foot.
 - Finished floor elevations must be one foot higher than overland release elevation.
- e. **Storm Water Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and storm water treatment controls to minimize storm water pollutant discharges.
- f. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

- g. **Undergrounding:** Developer shall complete the underground conversion of the utility facilities fronting the project adjacent to Lick Avenue. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.

h. **Street Improvements:**

Prior to the issuance of a Public Works Clearance for Phase I of construction, the applicant shall:

- Contribute \$125,000 towards the construction of a future signal at Lelong and Route 87 on/off ramps, with potential reimbursement of up to \$62,500 should the signal be funded by VTA projects or the future private development of the Elks site.
- Upgrade/modify the traffic signal at Alma and Lick Avenues to include ADA push buttons and pedestrian countdown signals.
- Reconstruct the traffic diversion islands at the intersections of Humboldt/Lick and Floyd/Lick to narrow street width and install trees in islands to provide visual breaks in the traffic corridor.
- Construct a 'bulb-out' design at the Tamien Caltrain Station driveway.
- Construct high visibility crosswalks along Lick Avenue to promote pedestrian mobility at locations to be approved by the Director of Transportation (i.e. textured or uplift crossings).
- Ensure that sidewalks along the entire Lick Avenue project frontage are replaced or repaired sufficient to ensure a smooth and safe walking environment.

Prior to issuance of a Public Works Clearance for each Phase of construction, the applicant shall implement the following:

- Remove and replace broken or uplifted curb, gutter, and sidewalk along the frontage of the site involved in that phase. New sidewalks along Alma and Lick Avenue frontages shall be 10 foot wide attached walks.
- Close any unused driveway cuts along the frontage of the site involved in that phase.
- Proposed driveway width shall be 26'.
- Dedication and improvement of the public streets to the satisfaction of the Director of Public Works along the frontage of the site involved in that phase. Repair, overlay, or reconstruction of asphalt pavement may be required along project frontage for each phase. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- Install street trees within the public right-of-way along the project street frontages involved in that phase of development per City standards. The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only. Contact the City Arborist at (408) 277-2756 for the designated street tree. Show all existing trees by species and diameter that are to be retained or removed. Obtain tree removal permit for any trees.

- j. **Complexity Surcharge (In-Fill):** This project has been identified as an in-fill project and is subject to the established criteria. The public improvements associated with this project have been rated medium complexity. An additional surcharge of 25% will be added to the Engineering & Inspection (E&I) fee collected at the street improvement

stage.

- k. **SNI:** This project is located within the Washington SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
- l. **Sanitary:** Submit a sanitary sewer plan at the Improvement Plan Stage with a profile of pipes, slopes, and inverts.
- m. **Electrical:**
 - Installation/relocation/relamping/repainting of electrolier(s) may be required and will be determined at the improvement plan stage.
 - Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
- o. **Filter Inlet Inserts:** The project developer shall install filter inlet inserts in all new storm drainage inlets. These filters shall be installed, maintained and replaced by a qualified consultant hired by the property owner. Copies of all inspection and maintenance records shall be provided to the City upon request. The project developer shall implement a maintenance program for these filter inlet inserts that includes but is not limited to the following measures:
 - *Installation.* The filter inlet insert shall be installed by a qualified individual in conformance with the manufacturer's specifications. Installation records shall be maintained by the project developer and subsequent property owner.
 - *Maintenance Record.* The property owner must keep a record available for inspection on the project site of all inspections and maintenance of the filter inlet inserts.
 - *Regular Sweeping.* Paved surfaces subject to runoff should be swept regularly during dry periods to remove dirt, silt and other loose debris.
 - *Regular Inspections.* The filter inlet inserts shall be inspected monthly between September and April, and the absorbent material shall be replaced by a qualified individual as necessary to ensure the filters are functioning properly.
 - *Replacement of absorbent Material.* The absorbent material shall be replaced by a qualified individual in conformance with the manufacturers specifications. Care should be taken to avoid spilling the contaminated material into the drainage system.
 - *Disposal of Used Absorbent Material.* Used absorbent material shall be disposed of in conformance with all applicable local, state, and federal regulations.
 - *Replenishment of Absorbent Materials Supply.* The property owner shall keep a sufficient amount of absorbent material on hand to replace the amount of installed absorbent plus a reserve to handle emergencies.
 - *Street Improvement Permit.* The project developer will be required to satisfy all Public

Works conditions prior to the issuance of a Public Works Clearance. The clearance will require the execution of a Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes plans, insurance, bonds/deposit certificate, and engineering and inspection fees.

- p. **Archaeology.** There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric resources.
- If no resources are discovered, the archaeologist shall submit a report to the Director of Planning verifying that the required monitoring occurred and that no further mitigation is necessary.
 - If evidence of any archaeological, cultural, and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the Director of Planning, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)
 - In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - A final report shall be submitted to the Director of Planning prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.

25. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property. Light sources inside the garage shall not be visible from outside the property. As an alternative to the additional lighting along the northerly side of the site (adjacent to the VTA walkway) required in Revised Plan Condition No. 8(f), the applicant may work with the VTA to provide additional lighting along the sidewalk on the VTA property, to the satisfaction of the Director of Planning.
26. **Garage.** The walls and ceiling of the garage located beneath the podium shall be painted white to increase visibility inside the garage
27. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
28. **Roof Equipment.** All roof equipment shall be screened from view.
29. **Utilities.** All on-site telephone, electrical and other overhead service facilities shall be placed underground.
30. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
31. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
32. **Fire Extinguisher and Alarm System.** Building(s) shall be provided with an automatic fire extinguisher system. Systems serving more than 100 heads shall be supervised by a remote alarm system to the satisfaction of the Fire Chief.
33. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
34. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
35. **Fire Flow.** Required fire flow for the site is 4,500 gpm, or as otherwise approved in writing by the Fire Chief.
36. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
37. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
38. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José

Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.

39. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
40. **Noise Mitigation.** Construction of all structures and other improvements approved by this permit shall include implementation of the noise mitigation measures identified in the *Environmental Noise Assessment for Tamien Place*, prepared by Charles Salter Associates, Inc. and dated July 19, 2004, to the satisfaction of the Director of Planning. Any changes in window size shall require additional permitting as deemed necessary by the Director of Planning.
41. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, PD04-21, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Americans With Disabilities Act.* The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
 - d. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.
 - e. *Lock Boxes.* The project developer shall provide lock boxes to the satisfaction of the Chief Building Official and the Fire Chief.
 - f. *Mechanical Equipment.* No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of an adjacent residential property line unless a Sound Engineer has certified that noise level from such equipment will not exceed 55db DNL at the residential property line.
 - g. *Phasing.* Comply with Phasing Condition No. 21 of this Permit.
 - h. *Lot Combination.* Prior to issuance of a building permit for Phases 3 or 4 as identified on the project plans, the applicant shall combine the existing parcels into one lot by means of a Lot Line Adjustment or Parcel Map.
38. **Police Issues.** The following requirements shall be provided to the satisfaction of the Director of Planning.

- a. *Address Numbers.* All buildings shall be clearly marked by address numbers.
 - b. *Security Hardware.* The project developer shall install adequate security hardware to the satisfaction of the Chief of Police and Chief Building Official.
39. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
40. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
41. **Affordable Housing.** The proposed project is subject to affordable housing requirements of the Redevelopment Area. The applicant shall provide affordable housing units in conformance with the Affordability Agreement approved for this project by the Housing Department.
42. **Homeowner's Association.** A Homeowner's Association shall be established for maintenance of all common areas, including driveways/courtyards and landscaping, including the Lick Avenue and Alma Avenue frontages to the face of curb. A copy of the Development Permit, the accompanying Plan Set, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans shall be provided to the Homeowners Association by the applicant no later than 30 days upon completion of each phase.
43. **Gate Limitation.** No pedestrian or auto gates are permitted on the entry driveway to the podium from Lick Avenue.

APPROVED and issued this 30th day of July, 2004.

Stephan M. Haase, AICP
Director, Planning, Building and Code Enforcement

Deputy

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Building Division
Engineering Services